G. R. S. 58]

Previous references.

Preserve

1915. 16
(Prisons)

File No. 16—15.

Serial Nos. 1—5

Later references.

, Pris 31-16(1-2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—5

Part B for Nov. 15

SUBJECT.

Admission of European ~~Lunatics~~ Insanes into the Lunatic Asylum under order issued by Justices of Peace for Mysore.

(+) To The Sr Surgeon & CR. J1-2.
a D.M. Bangalore dy 17-10-15.

States that for reasons stated the order passed by Mr. Cox is not correct & requests that the detention of Mr. Glass may be legalised by producing him before the a Magte & orders obtained under the Rules.

GPB—10,000—28-3-15

Thomas
4. 11. 15.

G.R.S. 11] 1915.

GENERAL AND REVENUE SECRETARIAT.

(Bnicons)

NOTES.

File No. 16 - 15

FILE HEADING.

Admission of European insanes into the Lunatic Asy under orders issued by Justices of peace for Mysore

From

The Senior Surgeon

No. 80 Dated 5-8-15 Received 6. 8. 15.

Diary No. 369	Enclos. 1	Spare Copies. -	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that under an emergency order issued by Mr Cox D Magistrate, C & M Station, Bangalore, one Mr Glass of Bnijan has been ~~[illegible]~~ admitted into the Lunatic Asylum and enquires if the order purporting to be in Mr Cox's capacity as Justice of the peace can be acted upon.

NOTES AND ORDERS.

1) Ruled.

As the lunatic is a resident of Mysore territory the charges for his maintenances have to be borne by the State and not by the C & M Station.

2) Admission of non-criminal lunatics are governed by Rules of 1872. It is understood that justices of the peace

NOTES—First Sheet.

GPB—35,000—15-6-12

Serial No.

exercise first class powers and if they are appointed for the whole of Mysore the order issued by Mr Cox, it seems, would be regular. References may perhaps be available in the Courts Section.

3) It is not clear why the City Police did not give any help in the matter as stated by Mr Cox.

Subd.
9/8/15)

4) Under the Foreign Dept notifn of the Govt of India dt 14.7.1904, Justices of the Peace who are themselves European Br: Subjects can, it seems, exercise all the powers of a 1st class magte in proceedings against European Br: Subjects and the notifn of 18.3.1884 appointing the Dist. Magte of the C.&M. Stns for the time being, provides he is a European British Subject, as a Justice of the Peace within the State of Mysore.

Gazette of India for 1904 to Dec'04 pubd-p 539 7C 5

Extension of Br: Enactments pubd-p 43. 7C I

W.
12.8.15

5) This seems to me to be a case of first impression, and to require a careful study of authorities. The question is whether a Justice of the Peace appointed by the Governor General in Council has power

NOTE—Contn. sheet.

GPB—20,000—30-6-15.

Serial No.

to commit a lunatic into the Asylum. The rules issued by the Chief Commissioner have the force of law, and may have to be read along with the order in Council under which Justices of the Peace are appointed. Under Rule 4, a Magistrate may make an order for reception and detention of a lunatic into the lunatic asylum. The point is whether a Justice of the Peace is a Magistrate within the meaning of this Rule.

6) Originally Justices of the Peace for Native States were being appointed under the power vested in the Governor General in Council by the Foreign Jurisdiction Act of 1890. This Act was superseded as to foreign jurisdiction by the Order in Council of 1902. In exercise of the powers conferred by this order, the Gov. General issued the Notification of 4.7.1904 and referred to in the note of the Branch. Under this Notification, a Justice of the Peace "shall have in proceedings against European British subjects or persons accused of having committed offences jointly with such subjects all the powers conferred by the Code of Criminal Procedure on Magistrates of the first-class who are Justices of the Peace and European British subjects." Though the word "Magistrate" has not been defined in the Rules framed by the Chief Commissioner

NOTE—Contn. sheet.

R. S. 12]

General and Revenue Secretariat. | Pols | File No. 16 | of 1915-16

Serial No.

There can be no doubt that the expression includes "every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure" (Vide S 3 cl 21 of the General clauses Reg) Under the Criminal Procedure Code, a Justice of the Peace ~~has~~ as such has no power unless he is also a Magistrate. A Magistrate or Judge has no power to try a European British subject unless he is a J.P. Thus it appears that the two terms are not convertible. Under the above Notf", a Justice of the Peace has the powers of a Magistrate of the 1st class only "in proceedings against E.B. subjects." A careful perusal of the rules framed by the Chief Court does not support the view that the proceedings taken by the Magistrate under those rules are proceedings against the lunatics. It appears rather that the proceedings referred to in the above Notf" are proceedings in which the E.B. subjects are charged with any offence, or against whom proceedings have to be taken under any Penal Law. The lunacy proceedings have nowhere been held to be proceedings against the lunatic. The J.P having thus no power to order detention, his action seems to me to be unauthorised by law.

715

715 G.

715

Contn. sheet.

GPB—20,000—30-6-15

Serial No.

7) As regards the 6th point raised by the Commissioner it must be stated that the Asylum authorities have no power to admit any lunatic into the Asylum, unless decided by a Magistrate. The powers of Police are also limited to cases of dangerous wandering lunatics.

SB 13/8

Secretary)

8) Deputy Commissioner, Fort Hamilton)

Done 9/8/15 27/8

9) It seems to me that the Hooghly D. M. of the C & M. Stn in such cases should somehow be legalised. I believe we have an arrangement with them to receive such lunatics. Please bring this file to me with all authorities for personal consultation in Office tomorrow.

9/7/15

Done 10/7

SB 10/7

10) My statement in para 6 requires slight amendment. "Magistrate" has been defined Rule 4.

GPB—20,000—30-6-15

General and Revenue Secretariat. | Pols File No. 11b of 1915.

Serial No.

Under this definition it is doubtful if the Dt Magistrate of C.P.M. Station a foreign country for purposes of law, can be held to be a Magistrate of a district. This definition clearly shows that a Dt Magistrate of C.P.M. Station has no authority over Lunatics of the State.

11) The agreement referring to 16/9 to the Lunatics of the C.P.M. Station.

EG 16/9

First Member)

12) Please put up draft as per note dictated.

EG 16/9

13) Draft put up.

AB 15/9/15

EG 16/9

CE 15/9

Sec A 30/9

First Member) 14) Draft approved

17/9/15.

EG 16/9

15) Issue

EG 16/9

NOTE—Contn. sheet.

GPB—20,000—30-6-15

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R. S. 12]

General and Revenue Secretariat. | File No. 16 of 1915.

Serial No.

2 To the A. A. Resident no Pol 329 d 21.9.15
States that for reasons given the order passed by Mr Cox would be ultra vires & that this objection would not arise if Mr Glass is treated as a lunatic of the Ct M. Station

3. From the A. A. Resident no 7297 d 6 Oct 15
Forwards copy of a letter from Mr Cox agreeing with the views expressed in the above and stat that in the Resident's opinion the legal invalidity can be set right by requesting the D. Magistrate of Bangalore to pass an order under rule 4 of the rules

16) Submit for order.
7/10/15

17) Putup. Draft to Dy Magistrate to pass suitable order in accordance with the views suggested above.
7/10/15

Eg
7/10.

18)
Draft order put up.
11/10/15

19) May be approved
11/10

Eg
11/10

First Member.
Draft appd: by First member
14. 10 15.

20) Issue
15/10/15

NOTE—Contn. sheet.

GPB—20,000—30-6-15

Issued from Camp vide draft

170

R. S. 12]

General and Revenue Secretariat.

Pers File No. 16 of 1915.

Serial No.	
4	To the Senior Surgeon and the D. Bangalore Camp No J 1-2 dt 17.10.15 —
	States that for reasons given the order passed by Mr Cox is not correct and requests that the detention of Mr Glass may be legalized by producing him before a magistrate & orders obtained under the rules.
5	From the D.M. Bangalore no S.270 dt dt 27.10.15.
	Reports that after obtaining the necessary particulars he passed an order for the detention of Mr Glass in the Asylum & forwarded it on 6 Sept 1915.
	No action is necessary. Thus may be filed.
	(A. 30-10-15)

NOTE—Contn. sheet.

GPB—20,000—30-6-15

No. G. 80
Encls. 1

Office of Senior Surgeon, Mysore Govt.

Dated, Bangalore, Aug. - 5 1915

DIARY No. J. 369

1915-10 4
SECTION Prisons
FILE No. 16-15
SERIAL No. 1

From

Rao Bahadur T. V. Arumugum Mudaliar, Esq., M. B., C. M.,
Senior Surgeon with the Government of
H. H. the Maharaja of Mysore, Bangalore.

To

The Secretary to the Government of
H. H. the Maharaja of Mysore,
General Deptt., Bangalore.

Sir,

I have the honor to state that, under an emergency order issued by Mr. A.R. Cox, I.C.S., District Magistrate, Civil and Military Station, one Mr. L.A.Glass of Gunjur, was admitted into the Lunatic Asylum on the 14th July 1915.

2. In his detailed letter No. 3080 dated 16-7-1915 to the Superintendent of the Asylum (copy enclosed for information) Mr. Cox says that the order for the detention of the lunatic was issued by him as a Justice of the Peace for the Mysore Province, and as such, the cost of maintenance of the lunatic ought to be borne by the Mysore Government and not charged to the Civil and Military Station.

3. Apart from the question of the Agency responsible for the maintenance of the lunatic, the Senior Surgeon in charge of the Asylum doubts whether an order passed by a Justice of the Peace could be acted upon, as no such authority is included in the definition of 'Magistrate' given in Clause 14 of the Rules published under Notification No. 141 dated 31-7-1874 and republished under Notification

The Senior Surgeon,
Mysore Govt., Bangalore.

To

The Secretary
to the Govt. of Mysore,
Genl Deptt.,
Bangalore

Dated 5-8- 1915.

No. G. 80

Encls. 1

Subject.

Requesting orders of G
sanct the admission in
Lunatic Asylum of on
Mr L. A. Glass sent by
District Magistrate Ca
Station.

Notification No. J.2740-Pris. dated 14-3-1913.

Orders of Government in the matter may kindly be obtained and communicated to me at an early date.

I have the honor to be,

Sir,

Your most obedient servant,

Senior Surgeon.

Letter No. 3080 dated 16th July 1915 from Mr. A.R.Cox, I.C.S. District Magistrate, Civil and Military Station, Bangalore, to the Superintendent in charge of the Lunatic Asylum, Bangalore.

With reference to the admission order issued today in respect of one Mr. F.A. Glass of Gunjur near Whitefield, for observation to your Asylum, I have the honor to state that as Mr. King who brought the lunatic could not get help either from the Asylum authorities or the City Police, the order for observation has been issued by me as a Justice of the Peace ~~in~~ for Mysore.

2. Any cost incurred on behalf of the lunatic should therefore be defrayed by the Mysore Government and not debited to the Civil and Military Station, Bangalore.

3. Particulars regarding the previous history of lunatic can be obtained from Mr. King, Whitefield.

"COPY"

Senior Surgeon.

22 2/9. Ord

G.R.S. 26]

Military Station Bn File No. 16-15
in his capacity as
Justice of the Peace. Serial No. 2 (12

Diary No. of letter replied to

No. Pol 329

General and Revenue Secretariat
( )
, *the* 19 .

To

The A. A. Resident

Sir

I am directed to state that Mr
L. A. Glass of Sunjur, near Whitefield,
was, on the 14th July 1915, admitted into
the Lunatic Asylum, Bangalore, under
an order issued by Mr A. R. Cox, I.C.S.,
Dt. Magte. of the Civil and Military
Station, Bangalore. It is reported that
~~the order was issued by Mr Cox~~ he was admitted
in his capacity as Justice of the Peace
for the Mysore State
and that he has stated that
~~therefore~~ the cost of the
maintenance of the lunatic should

over.

SUBJECT.

20/9

be borne by the Durbar and not charged to the Civil and Military Station.

2. I am to observe that Mr Cox has, under Govt of India Notifn no 2770 F. B. dy 14th July 1904 read with Notifn no 955 I dy 18 Mar 1881, the powers of a magistrate of the first class only in criminal proceedings against European British Subjects and that, for the purpose of ordering the detention of a lunatic of the State under the Rules issued with Chief Comr's Notifn no 141 dy 31st July 1874, he cannot be deemed to be a Magistrate within the meaning of Rule 14 of those Rules. The order passed by Mr Cox in Council is therefore ultra vires.

3. I am to say that this objection would not arise if Mr Glass is treated as a lunatic of the Civil and Military Station in which case the cost of his maintenance will have to be

List of enclosures,

Copied by

Examined by

GPB—10,000—28-2-11.

(14.

... R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

borne by the Administration thereof.

4. I am to request to be favoured with the views of the Hon'ble the Resident in the

I have &c

15/9/15

15/9

15/9

15/9 for Sec'y.

(15

Letter No. 4252, dated the 1st October 1915, from the District Magistrate, Civil and Military Station of Bangalore, to the First Assistant to the Hon'ble the Resident in Mysore.

In reply to your endorsement No. 7039, dated the 29th September 1915, I have the honour to report as follows : -

As far as I can see the contention of the Secretary to the Government of H. H. is correct. I am not a Magistrate in Mysore except in proceedings against European British subjects under the Criminal Procedure Code. My order therefore regarding the lunatic, Mr. Glass, was strictly ultra vires if made qua J. P. in Mysore Province. I regret my mistake. The circumstances were these.

One Mr. King of Gunjur, near Whitefield, appeared at my bungalow at 8-30 A.M. on 14th July. He said that he had a terrible time with Mr. Glass, of the same village the previous day, the latter running about all over the place without any clothes and being exceedingly difficult to deal with. After much trouble Mr. King, who is no relation of Mr. Glass, but is a missionary of some denomination, had got Mr. Glass into a jutka and driven him to Bangalore. They arrived drenched by the heavy rain at 10 P.M. The Superintendent of the Asylum refused admission to the lunatic without a magisterial order. The Police, I think, of Chowk Station, refused to help in any way. I forgot where it was that Mr. King said he and his poor friend finally obtained some food and lodging.

I was very sorry for Mr. King's state and wanted to see that the lunatic was as quickly as possible received into the lunatic asylum. It did not then occur to me that the District Magistrate, Bangalore, might have been the proper person to send Mr. King to. Hence I passed

the

the order and as the lunatic did not belong to this Station but had merely passed through it I subscribed myself in the order as J.P. of Mysore. I wrote the same day (it was despatched on 16-7-15) to the Surgeon in - - charge of the Lunatic Asylum stating that as the lunatic was an inhabitant of the Mysore Province the cost of his maintenance should be borne by the Government of H. H. the Maharaja. This result would however be hardly fair. I would draw your attention to the fact that under rule 3 of the Rules for the reception and detention of lunatics in asylums in the Province of Mysore published under Chief Commissioner's Notification No. 141, dated the 31st July 1874, it was the duty of the officer in charge of the Police Station, even at 11 P.M. to apprehend the lunatic and put him before a Magistrate, or at any rate to direct Mr. King to go before the District Magistrate, Bangalore.

I do not know who directed Mr. King to come to me. In view of the fact that Mr. Glass was undoubtedly brought from Gunjur, in the jurisdiction of the Government of H. H. the Maharaja, I trust that the legal invalidity of my order may be overlooked and that if necessary the District Magistrate of Bangalore be requested to issue a detention order and take further proceedings if necessary under rule 4 of the Rules dated 31-7-1874.

J 1

---------- E/7407 / 10.15

Pol 16-15-3

No. 7297. Mysore Resident's Office,
Bangalore, the 6th October 1915.

A copy of the foregoing letter is forwarded to the Government of His Highness the Maharaja of Mysore with reference to Mr. Narasimha Rao's letter No. 329 Pol., dated the 21 st September 1915, with the remark that, in the Resident's opinion, the matter can be set right

(17

if action can be kindly taken by the Durbar in the manner indicated in the last paragraph of Mr. Cox's letter.

For First Assistant Resident.

Directing that Mr Glass be produced a Magistrate and order obtained for his detention in the Lunatic Asylum. (18

File No. 16-5
Serial No. 4

*Diary No. of letter replied to*_____

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.
( )

, *the* 191 .

Paper under discussion.

Date of issue 17/10/15

Signed by Mr G. Sreenivasa Iyer

READ—

_____ Letter no. S. 80 dt 5th Aug. 1915 from the Senior Surgeon reporting that one Mr Glass of Sirpur was, on the 14th July 1915, admitted to the Lunatic Asylum, Bangalore, under an order signed by Mr Cox, Magistrate of the Civil and Military Station, Bangalore, in his capacity as Justice of the Peace for Mysore and enquiring if

~~ORDER THEREON.—No.~~

over

SUBJECT.

19)

if the order could be acted upo

Order thereon. Camp 2nd J1-2

Govt observe that

Mr Cox has, under orders issued by the Govt of India, the powers of a Magistrate of the first class only in criminal Proceedings against European British Subjects, and that for the purpose of ordering the detent of a lunatic of the State in the Lunatic Asylum under the Rule issued with Chief Com[rs] Notification no 141 of 21 July 1876, he cannot be deemed to be a Magistrate within the meaning of Rule 14 of those Rules. The order passed by Mr. Cox is therefore ultra vires Not Correct.

2. Govt consider that the detention of Mr Glass should be legalised and they are therefore pleased to direct that, if he is still in custody, he may be produced before a Magistrate having jurisd

6PB—20,000

(20

G. R. S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

and orders obtained for the detention under Rule 4 of the Rules above referred to.

14/10/15

11/10/15
for Secy

To the Senior Surgeon,
The D.M.O. Bangalore.

11/10/15

11/10/15

No. S 270

nal.

Deputy Commissioner's Office,

Bangalore District.

Bangalore Dated, 26 th October 1915.

From

K. Chandy, Esquire, B.A.,

Deputy Commissioner,
& District Magistrate,
Bangalore District.

DIARY No. J 1170

12 -10
SECTION Pris
FILE No. 16 - 15
SERIAL No. 5

To

D. Narasinga Rao, Esq., B.A., B.L.,

Secretary to the Government of Mysore,

General Department,

Bangalore.

Sir,

With reference to Government Proceedings No. Camp J1-2/ Pris.16-15-4 dated the 17th October 1915 stating that to legalise the detention of one Mr. Glass sent to the Lunatic Asylum by the District Magistrate of Civil & Military Station in his capacity as justice of the Peace for Mysore, he may be produced before a Magistrate and orders obtained under Rule 4 of the Rules, I have the honour to state that on admitting the patient in the Asylum, the Senior Surgeon kept him under observation and forwarded to me the medical Report (F.A.) and History Sheet (Form C) of the patient with a request that the usual warrant in Form I and statement in Form II should be sent for duly detaining the patient. After obtaining the particulars necessary for preparing Form II prescribed by Government Order No. J.2130 -39/Pris.8-05-28 dated 16-1-1908, I issued a warrant in Form I for the detention of the patient in the Asylum and forwarded the same to the Senior Surgeon in charge of the Lunatic Asylum with No. 802 dated 6/7th September 1915.

2. It will thus be seen that by my issuing an order under Rule 2 of additional Rules dated 16-1-1908, the detention of

III Kby

29/10

Person 29/10
1915-16.

From The District magistrate
Bangalore District

To The Secretary to Govt.
Genl. Department
Bangalore

Dated

Despatched VI
28-10-15

Received

General No. $ 270
No.

Enclosure No.

In the matter of producing Mr. Glass, lunatic in the Lunatic Asylum, before a magistrate and obtaining orders for his detention in ~~India~~

(22

of Mr. Glass in the Asylum has been legalised though his admittance was incorrect.

I have the honour to be,

S i r ,

Your most obedient servant,

M Ramaker

for Deputy Commissioner &
District Magistrate,
Bangalore District.

(Absent from the Station